

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
(Norfolk Division)**

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|---|---|-------------------------------|
| THE RADIANCE FOUNDATION, INC. |) | |
| and RYAN BOMBERGER, individually, |) | |
| |) | |
| Plaintiffs/Counterdefendants, |) | |
| |) | |
| v. |) | Case No. 2:13-cv-53 (RAJ/LRL) |
| |) | |
| NATIONAL ASSOCIATION FOR THE |) | |
| ADVANCEMENT OF COLORED PEOPLE, |) | |
| |) | |
| Defendant/Counterplaintiff. |) | |
| <hr style="width: 40%; margin-left: 0;"/> |) | |

**DEFENDANT/COUNTERPLAINTIFF NATIONAL ASSOCIATION
FOR THE ADVANCEMENT OF COLORED PEOPLE’S MOTION *IN LIMINE* TO
EXCLUDE EXPERT REPORT AND TESTIMONY OF TRACY TUTEN, PH.D.**

COMES NOW Defendant/Counterplaintiff National Association for the Advancement of Colored People (“NAACP or Defendant”), by counsel and pursuant to Rule 702 of the Federal Rules of Evidence (“FRE”), the principles set forth in *Daubert v. Merrill Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and the Local Rules of this Court, and hereby moves *in limine* to exclude the expert report and testimony of Tracy Tuten, Ph.D.

The Court should exclude Dr. Tuten’s report and testimony due to lack of qualifications and failure to meet the standards for the admissibility of expert testimony under FRE 702 and *Daubert* and its progeny.

In support of this motion, the NAACP submits the accompanying memorandum of law and exhibits annexed thereto.

WHEREFORE, the NAACP respectfully requests that the Court grant the instant Motion *in Limine* and enter an order excluding Dr. Tuten's report and testimony from evidence in this case.

Dated: November 6, 2013

Respectfully submitted,

/s/ David G. Barger

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CERTIFICATE OF SERVICE

I hereby certify that on November 6, 2013, the foregoing document was filed with the Clerk of the Court using the CM/ECF filing system and that service will thereby be accomplished on:

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